

REPLIES BY DR. F. VAN ZYL SLABBERT, M.P., TO QUESTIONS ASKED BY
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1. IS THERE ANY MEANINGFUL ROLE FOR THE OPPOSITION IN THE PROPOSED CONSTITUTIONAL ARRANGEMENT?

At the moment it is impossible to give a hard and fast answer to this question for the simple reason that we are still involved in the very process of constitution-making itself. If one looks at the latest recommendations of the Constitutional Committee of the President's Council as far as they affect the role and contribution of the Opposition, then it would appear that in the envisaged Parliamentary Standing Committees where most of the action, as it were, will be taking place, the position of the Opposition is left deliberately and alarmingly vague. However, since then the Minister of Constitutional Development, Mr. Chris Heunis, has indicated that he envisages a constitutional position where the Opposition obviously will, according to him, play an important role. Therefore, one would have to wait and see what the final package is going to be before one will be able to adequately assess whatever role the Opposition can play and whether such a role will be a better one than the one that they play now in the present dispensation.

2. WHAT ROLE DOES THE PFP SEE FOR ITSELF IN THE NEW DISPENSATION?

Obviously, the PFP would like to see a constitutional dispensation where there would be far more effective checks and balances against the use or abuse of executive power. It therefore follows that the more such control exists, the more important is the role of Opposition Parties in a constitutional structure. Three possibilities arise out of a new constitutional dispensation for minority or opposition parties - they can be worse off; they can be more or less in the same position; or they can be better off. Obviously, the PFP will try everything within its power to see to it that the new constitutional situation will be one in which the position of Opposition will be better off.

3. DO THE CONSTITUTIONAL RECOMMENDATIONS PROVIDE A PERMANENT SOLUTION TO SOUTH AFRICA'S POPULATION PROBLEMS?

We have repeatedly tried to highlight the fact that if a new constitutional dispensation excludes 70% of the people from any effective participation then obviously such a dispensation can be no lasting solution to the problems of this country. In fact, it may even compound the problems. We have also tried to make the point that for as long as a constitution entrenches racial segregation and discrimination the constitution will be a source of conflict rather than an instrument to resolve such conflicts in society. This is a problem that we are at present experiencing with the existing constitution and we feel that it would simply be a waste of time to carry over this same problem into a new constitution.

4. HOW DO THE ENVISAGED EXECUTIVE PRESIDENT'S POWERS COMPARE WITH (a) THOSE OF THE PRESENT PRIME MINISTER AND (b) THOSE OF COMPARABLE WESTERN LEADERS?

(a) The present Prime Minister is more immediately subject to the daily running of Parliament and to the control of his own party and Cabinet. It would appear that so far the Executive President will not be as immediately under the control of Parliament or of his Cabinet or of the Party. The fact that the present Prime Minister has an enormous amount of de facto power which cannot be limited constitutionally does not make this a good thing or should not act as a recommendation for the same powers being conferred on an Executive President in a new dispensation. In a deeply divided society such as ours where one attempts to bring in other population groups into a constitutional structure, it is vitally important that constitutional checks and balances be brought into the system to prevent any individual or group from attaining a position of dominance or complete control of power.

(b) As far as comparable Western leaders are concerned, I think there is a fundamental difference between, for example, the President of France and the envisaged new Executive President. The most

obvious and glaring difference is that the Executive President as envisaged by the Government's guidelines and the recommendations of the President's Council will be elected by an electoral college in which 50 members from the National Party have effective power to decide who the Executive President will be. In the case of France and in the United States for that matter, the Executive President is elected by the people in a general election. In the latter case, from the outset, he knows that he has a broad base of support which he can use as his mandate for governing. In the envisaged Executive President within the constitutional recommendations of the President's Council as well as in the guidelines of Government, the base of support is narrowed down to the dominant party in the White Chamber. Constitutionally, the Executive President may be in a powerful position; politically he is going to be in a far weaker position than any comparable figure in Western governments.

5. WHAT DO YOU THINK OF THE "CONFLICT MANAGEMENT" APPROACH - THE MIXED COMMITTEE SYSTEM AS ENVISAGED IN THE NEW CONSTITUTIONAL PROPOSALS?

I am very much in favour of the principle and style of conflict management in politics. I prefer horse-trading and bargaining politics to adversarial and confrontationist politics. So any attempt at bringing this about should be encouraged. On the other hand, one should be very careful not to use the style of conflict management and in fact simply entrench confrontationist and adversarial politics - then, one could very well end up with the worst of all possible worlds. I will elaborate on this point when discussing the 4:2:1 formula.

6. HOW DOES THE ACCOMMODATION OF COLOUREDS AND ASIANS (BLACKS EXCLUDED) DIFFER FROM THE PFP'S ENVISAGED ACCOMMODATION OF THESE POPULATION GROUPS?

A fundamental difference between the Government and the PFP is that the PFP accepts voluntary association of people in politics as absolutely essential for a new constitutional dispensation in South Africa. The Government, on the other hand, cannot, in terms of the logic of its own approach, bring about an accommodation of Coloureds and Asians without the assistance of the Population Registration Act and the Group Areas Act. The PFP finds both these Acts - particularly the Population Registration Act insofar as it classifies people according to race and ethnicity - obnoxious. Therefore, we would allow a voluntary association of all people for the purposes of political participation. And if, after such a voluntary association has taken place, there are significant political groups which have a predominantly Coloured or Asian membership who wish to participate, then they should be allowed to do so proportionately as should any other political interest groups that manifest themselves politically in this sense as well.

7. YOUR VIEW ON THE ENTRENCHMENT OF THE 4:2:1 RATIO IN THE NEW CONSTITUTIONAL STRUCTURE?

I believe it is an insult to the idea of proportional representation to present the 4:2:1 ratio as an example of proportional representation. This is nothing else but the entrenchment of a formula where racial participation has to take place and one particular group, obviously in this case the Whites, being in a position of permanent constitutional dominance. Proportional representation, if it means anything, means that the representation of the units in a system vary according to their proportionate numbers. In other words, if their numbers change, their representation will change proportionately. This is something entirely different to entrenching a fixed racial quota irrespective of the changes that take place in the sizes of the groups that are being accommodated. Projected into the future, such a racial entrenchment simply means that, irrespective

of the fact that in the future Coloureds and Asians may outnumber Whites in the population set-up, constitutionally a ratio has been entrenched in favour of Whites which ignores the real proportion between these various population groups. To then call this a system of proportional representation is simply an insult to one's intelligence.

8. YOUR VIEW OF THE CONSEQUENCES ON FUTURE RELATIONSHIPS BETWEEN THE DIFFERENT POPULATION GROUPS IF THE NEW DISPENSATION IS IMPLEMENTED?

A point that I have repeatedly stressed and which still concerns me greatly is that the vast majority of Black people in South Africa, by virtue of their exclusion in the new constitutional dispensation, will tend to see it as a process of ganging-up between Coloureds, Asians and Whites despite protestations to the contrary from the Government. This must inevitably have a polarizing effect between Black and non-Black people in South Africa.

Secondly, to the extent that this polarization gathers momentum, it could increase White fears and anxiety and make them more amenable to right-wing exploitation and demagogy. So, the unintended consequence could, in fact, be a growth rather than an arrest of the right-wing in White politics. On the other hand, it could also lead to a period in which there could be a softening of relations between Coloureds, Asians and Whites simply because they are forced to participate in a new dispensation. However, this advantage will have to be weighed up against the possible disadvantages that I have just mentioned.

9. DO YOU THINK THAT THE GOVERNMENT WAS HONEST WITH ITS VOTERS - HONEST IN THE MANNER IN WHICH IT WANTED TO BRING ABOUT CONSTITUTIONAL CHANGE BY MEANS OF THE PRESIDENT'S COUNCIL AND A SO-CALLED MANDATE FROM THE ELECTORATE?

I do not think honesty is the operative word in this particular case. In 1977 a general election was held in which the Government said that it sought a mandate from the electorate for the 1977 Proposals which were already then in draft form. The Government

received an overwhelming mandate, - so, logically, one could argue that it was even then in a stronger position than it is now to just go ahead and implement those proposals. In the meantime, the Government has amended the 1977 Proposals by using the President's Council and of course giving its own guidelines. So it could claim that there is no fundamental difference between what is envisaged in the new guidelines and recommendations and the fundamental principles accepted in the 1977 Proposals. However, this is all of academic interest. What has happened in the meantime is that the National Party has split, that there is a great deal of public interest and involvement in this whole process of constitutional change, and that it would be in the interests of Government to re-establish to what extent it does have a mandate from the White electorate specifically to introduce the kind of constitutional changes which it has so far made public. If it does not do so, it would be a mistake for Government to think that it can trade on the 1977 results in simply going ahead and implementing the new constitutional dispensation.

10. ANY OTHER OPINIONS YOU HAVE CONCERNING THE PRESIDENT'S COUNCIL'S REPORTS?

I think a fundamental dilemma that we have in South Africa is that we have gone about the process of constitution-making the wrong way around. One party, in this case the National Party, first devised a constitutional plan, then put this plan to its own party organs for approval, then were bound by their own party organs to the details of this plan and then attempted to sell this plan to the other population groups that were presumably going to benefit from the implementation of this plan. However, at that particular stage very little bargaining room or manoeuvrability was available to Government in order to trade with the new groups which it wanted to accommodate. It would perhaps have been better and more flexible for Government to have gone to its own organs and asked for a mandate with specific limits to negotiate a new plan to ask for a mandate within very clearly spelt out constitutional limits, for example, no domination, no discrimination, full citizenship rights, protection

of minorities, etc., etc., and then to go to the other population groups and to negotiate with them for a more detailed constitutional plan to give effect to these principles. In this way, they could have known at every stage of the process of constitution-making to what extent they had the co-operation and the support of the groups which they wished to accommodate in the new constitutional set-up. It is an almost intolerable situation to be in to have to go through the whole process of formulating a new constitution and actually enshrining it in law in Parliament and still not knowing to what extent one can depend on the co-operation and support of the other population groups to make it work - and this is exactly the position in which we find ourselves at present.

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